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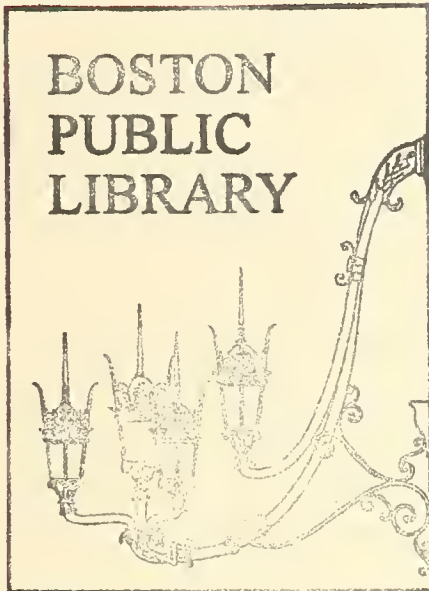
4230

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT IN EQUITY

no. 98981 Eq



BERNARD B. HRUL
CHRISTOPHER A. IANELLA
HELENE JOHNSON
PETE T. JOHNSON, JR.
ZELLA JONES
ROBERT L. W. KAVIN
CATHERINE M. MULLEN
MARY V. MULLEN
JON C. STRAIGHT
SUSAN STRAIGHT
STELLA TRAFFORD, Petitioners

VS.

THE CITY OF BOSTON

AND

THE BOSTON REDEVELOPMENT AUTHORITY, Respondents

BILL OF COMPLAINT

To the Honorable Justices of the Court

Your petitioners respectfully represent that:

1. This bill is brought pursuant to the provisions of Chapter 40, Section 53, and Chapter 231A of the General Laws.

2. The petitioners are all taxable inhabitants of the City of Boston.

3. The respondent, the City of Boston, hereinafter called the City, is a municipal corporation duly organized by law having its principal place of business in Boston, Suffolk County, Massachusetts.

4. The respondent, the Boston Redevelopment Authority, hereinafter called the Authority, is an urban renewal agency and a public body politic and corporate, duly organized and now existing under Chapter 121B of the General Laws and having its principal place of business in Boston, Suffolk County, Massachusetts.

5. On July 15, 1971 the Authority approved an urban renewal plan, as that term is defined in Chapter 121B, Section 1, of the General Laws. Such plan will hereinafter be described as the "Park Plaza Urban Renewal Plan".

6. On July 29, 1971 the Authority authorized the execution of a cooperation agreement between the Authority and the City to further the implementation of the Park Plaza Urban Renewal Plan.

7. On July 30, 1971 the Authority transmitted to the Mayor of Boston the text of the Park Plaza Urban Renewal Plan, together with related documents, for the purpose of obtaining approval of that plan by the

municipal officers of the City, in accordance with the procedures specified in Chapter 121B, Section 48 of the General Laws.

8. On August 2, 1971 the Mayor of Boston submitted to the Boston City Council the Park Plaza Urban Renewal Plan and related materials for the purpose of securing the approval of said urban renewal plan by the municipal officers of the City, all in conformity with the provisions of Chapter 121B, Section 48, of the General Laws of the City Charter.

9. On December 6, 1971 the Boston City Council, acting in accordance with the provisions of Chapter 121B, Section 48 of the General Laws and of the City Charter passed the following:

- A. A resolution approving the Park Plaza Urban Renewal Plan.
- B. An order authorizing the Mayor of the City of Boston on behalf of the municipal officers of the City of Boston to enter into a cooperation agreement between the Authority and the City for the Park Plaza Urban Renewal project

C. An order authorizing a loan
in the amount of \$6,800,000.00,
which funds were to be expended
by the City in connection with
the Park Plaza Urban Renewal
project for the purposes speci-
fied in Chapter 121B, Section 21
of the General Laws.

10. The actions of the Boston City Council as specified in Paragraph 9 above, were approved by the Mayor of Boston, thus completing the approval of the Park Plaza Urban Renewal Plan by the City's municipal officers as required in Chapter 121B, Section 48, of the General Laws.

11. The cooperation agreement, as executed by the City and the Authority pursuant to the vote of the Boston City Council taken on December 6, 1971 contained the following language, added by vote of the Council:

"13. Within one year of the date hereof the city shall have caused appraisals to be made of each of the properties in Disposition Parcels 4 and 5 (Stage II). Such appraisals shall establish the value of each such property as of the date hereof and shall be made at the initial expense of the city; provided that the city shall be reimbursed for such expense by the person or persons selected to develop such parcels within thirty days after execution by him or them of a Land Disposition Agreement."

12. The conditions contained in Paragraph 13



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of the Cooperation Agreement, as set forth in the above paragraph, were not met, and other conditions specified were also not met.

13. The Cooperation Agreement executed by the Mayor of Boston and the Authority, pursuant to the Council's vote of December 6, 1971 contained the following additional language:

"It is the specific intent of the City Council that each of the approvals given by the City Council in its final vote adopting this Cooperation Agreement is conditioned on acceptance by the Authority of all of the changes voted by the City Council on December 6, 1971, whether in approving or amending the report of the Committee on Urban Development. If any of such changes are not effected by the Authority or Urban, all approvals herein given are specifically nullified and invalidated. Should the Authority find any changes unacceptable, it must resubmit the Plan for City Council approval with written notice of such part or parts as are found unacceptable and such changes as are recommended for City Council action."

14. The Boston City Council's order approving the Park Plaza Urban Renewal Plan contained the following language:

"It is the specific intent of the City Council that each of the approvals given by the City Council in its final vote adopting this Plan is conditioned on acceptance by the Authority of all of the changes voted by the City Council whether in approving or amending the report of the Committee on Urban Development. If any of such changes are not effected by the Authority or developer all approvals herein given are specifically nullified and invalidated. Should

the Authority find any changes unacceptable, it must resubmit the Plan for City Council approval with written notice of such part or parts as are found unacceptable and such changes as are recommended for City Council action."

15. After the Council's vote and the Mayor's approval the Authority submitted the Park Plaza urban renewal plan to the Department of Community Affairs, as required by Chapter 121B, Section 48 of the General Laws. The Department rejected this submission.

16. The Authority later resubmitted the Park Plaza urban renewal plan, in modified form, on two separate occasions, to the Department of Community Affairs and both submissions were rejected by the Department. A fourth modified submission of the Park Plaza urban renewal plan is now pending before the Department of Community Affairs.

17. None of these subsequent modifications of the Park Plaza urban renewal plan were submitted by the Authority to the municipal officers of the City of Boston for their approval.

18. The Boston City Council has never waived any of the conditions or requirements it imposed in its actions in approving the Park Plaza Urban Renewal Plan and in modifying the draft Cooperation Agreement.

19. Your petitioners are advised and believe and therefore aver that the sum of \$6,800,000.00 is

about to be borrowed and expended by the respondent City in pursuance of the Park Plaza Urban Renewal Plan, contrary to law and contrary to the specific requirements imposed on both defendants by the Boston City Council in conditionally approving the Park Plaza urban renewal plan.

20. Your petitioners have no adequate remedy at law.

WHEREFORE, your petitioners pray:

1. That a short order of notice be issued to both respondents.

2. That the pleadings be completed forthwith.

3. That the City, its agents, servants, and employees, pending the final determination of this petition be enjoined and restrained from raising and expending the sum of \$6,800,000.00 pursuant to the Boston City Council's vote of December 6, 1971 and from incurring any obligations purporting to bind the City of Boston with respect to approval heretofore given by the Mayor and the City Council to the Park Plaza Urban Renewal Project.

4. That the City, its agents, servants, and employees be permanently enjoined and restrained from raising and expending the sum of \$6,800,000.00 pursuant

to the Boston City Council's vote of December 6, 1971 and from incurring any obligations purporting to bind the City of Boston with respect to approval heretofore given by the Mayor and the City Council to the Park Plaza Urban Renewal Project.

5. That the Authority, its agents, servants, and employees, pending the final determination of this petition be enjoined and restrained from taking any action in pursuance of the Park Plaza Urban Renewal Plan and the Cooperation Agreement signed incidentally thereto.

6. That the Authority, its agents, servants, and employees be permanently enjoined and restrained from taking any action in pursuance of the Park Plaza Urban Renewal Plan and the Cooperation Agreement signed incidentally thereto.

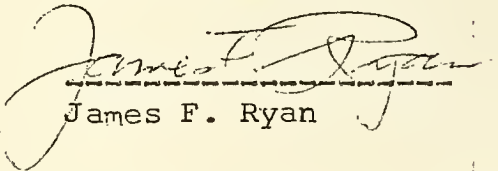
7. That this Honorable Court adjudge and decree that all approvals given by the City Council to the Park Plaza Urban Renewal Plan pursuant to its vote of December 6, 1971 have been and are specifically nullified and invalidated.

8. That this Honorable Court adjudge and decree that the cooperation agreement executed between the two defendants in this proceeding has been nullified and invalidated as the result of the language contained in Paragraph Eleven of this complaint, above.

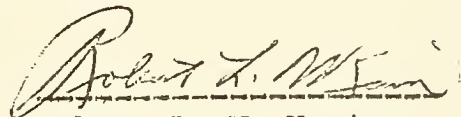
9. That this Honorable Court adjudge and decree that Chapter 121B, Section 48 of the General Laws requires that an urban renewal plan, once rejected by the Department of Community Affairs, must receive subsequent reapproval from the municipal officers of the city or town involved before being resubmitted to the Department of Community Affairs.

10. That this Honorable Court grant to the petitioners such other and further relief as to this Court may seem just and proper.

By their Attorney:


James F. Ryan

Now comes the petitioner, Robert L. W. Kavín, and makes oath under the pains and penalties of perjury that he has read the foregoing Bill of Complaint and knows the contents thereof; that the facts stated therein are true of his own knowledge, except such as are stated to be alleged on information and belief, and as to those that he believes them to be true.


Robert L. W. Kavín

